

occurring upon a change in temperature of the liquid crystal material between a crystalline phase at a room temperature to an isotropic phase in a final state through a smectic phase at an elevated temperature, and a thickness of the gap between the electrodes being smaller than a domain size of the liquid crystal compound in a cooled state from the isotropic phase in a final state.

Shimizu does not anticipate claim 23 because Shimizu fails to teach every limitation of claim 23.

A. Shimizu fails to teach a rod-shape liquid crystal compound

As acknowledged in the Office Action, Shimizu is silent regarding the shape of the liquid crystal material disclosed therein, and thus does not expressly teach a rod-shape liquid crystal compound, as required by claim 23.

The Office Action incorrectly argues that Clark (U.S. Patent No. 5,227,905) "evidences" that, generally, liquid crystal materials include rod-shaped molecules. However, Clark only discloses that the liquid crystals of U.S. Patent No. 4,367,924 are rod-shaped. See Clark at col. 3, lines 27-33 and col. 1, lines 22-26. In other words, Clark does not disclose that all liquid crystal material is rod-shaped, and does not disclose that Shimizu's liquid crystal material is rod-shaped. Thus, Shimizu in view of Clark does not explicitly or inherently teach a rod-shape liquid crystal compound, as required by claim 23.

For at least these reasons, Shimizu fails to teach every limitation of claim 23. Specifically, Shimizu fails to teach a rod-shape liquid crystal compound, as required by claim 23.

B. Shimizu fails to teach a liquid crystal material having a property such that charge-transport properties are varied according to a phase transfer of the liquid crystal

The Office Action argues that Shimizu discloses a liquid crystal material that undergoes a phase transfer upon a change in temperature of the liquid crystal material.

However, Shimizu fails to teach a liquid crystal material having charge-transport properties that vary according to a phase transfer of the liquid crystal material, as required by claim 23.

At col. 14, lines 1-3, Shimizu discloses liquid crystal material having an isotropic transition temperature of 60°C. The term isotropic means independent of direction. In other words, heating Shimizu's liquid crystal material to 60°C will drive it into a conventional liquid phase characterized by random molecular ordering and fluid-like flow behavior. However, Shimizu does not teach that the liquid crystal material has charge-transport properties, and Shimizu does not teach a liquid crystal material that has charge-transport properties that vary according to a phase transfer of the liquid crystal material, as required by claim 23.

In fact, Shimizu teaches away from claim 23 by requiring that the information recording apparatus includes a separate photoelectric sensor having the charge-transport layer. See Shimizu at col. 2, lines 36-42, col. 3, lines 21-29, col. 10, lines 6-21 and 35-36, and the Examples. In other words, Shimizu discloses an information recording apparatus in which the photoelectric sensor, as opposed to the liquid crystal material, has charge-transport properties. Furthermore, Shimizu does not teach that the charge-transport properties of any compound, much less the liquid crystal material, varies according to a phase transfer of the liquid crystal material.

For these additional reasons, Shimizu fails to teach every limitation of claim 23. Specifically, Shimizu fails to teach a liquid crystal material having charge-transport properties that vary according to a phase transfer of the liquid crystal material.

C. Shimizu fails to teach a thickness of the gap between the electrodes being smaller than a domain size of the liquid crystal compound in a cooled state from the isotropic phase in a final state

As acknowledged in the Office Action, Shimizu is silent regarding a thickness of a gap between the electrodes, and thus does not expressly teach the gap thickness of claim 23.

The Office Action argues that Shimizu discloses: (i) the claimed electrodes, (ii) the claimed liquid crystal material, and (iii) that the liquid crystal material is used to fill the gap between the electrodes. The Office Action further argues that all of the structural limitations of claim 23 are met because Shimizu discloses (i) - (iii), and that the claimed gap thickness is therefore inherently taught by Shimizu. In other words, the Office Action argues that the claimed gap thickness is not a structural limitation.

First, as discussed above in section I.B., Shimizu does not teach the claimed liquid crystal material having a charge-transport properties that are varied according to a phase transfer of the of the liquid crystal material, as required by claim 23. Thus, the Office Action is incorrect in its argument that Shimizu teaches the claimed liquid crystal material.

Second, the thickness of the gap between the electrodes is itself a structural limitation of the claimed device. Thus, even if Shimizu's liquid crystal material is identical to the claimed liquid crystal material (which it is not), and even if Shimizu's liquid crystal material has chemical properties identical to the claimed liquid crystal material (which it does not), Shimizu's device has a different structure from the claimed device because Shimizu fails to teach the claimed gap thickness. In other words, Shimizu's device is different from the claimed device because Shimizu's device does not have a gap between the electrodes having the claimed thickness -- regardless of whether Shimizu's liquid crystal material contained in the device is identical to the claimed liquid crystal material.

For at least these reasons, Shimizu fails to teach every limitation of claim 23. Specifically, Shimizu fails to teach a device comprising a thickness of the gap between the electrodes being smaller than a domain size of the liquid crystal compound in a cooled state from the isotropic phase in a final state.

D. Conclusion

For at least the reasons discussed above, claim 23 is not anticipated by Shimizu because Shimizu does not teach every limitation of claim 23. Accordingly, claim 23 is patentable over Shimizu. Reconsideration and withdrawal of the rejection are respectfully requested.

II. §102(e) REJECTION

The Office Action rejects claims 13, 16, and 20-23 under 35 U.S.C. §102(e) as being anticipated by Hanna (U.S. Patent No. 6,174,455). Applicants respectfully traverse the rejection.

As stated in the Office Action, when the unclaimed subject matter of a reference is applicant's own invention, applicant may overcome a *prima facie* case based on the reference by showing that the disclosure is a description of applicant's own previous work. See *In re Mathews*, 408 F.2d 1393, 161 USPQ 276 (CCPA 1969) and MPEP §2136.05.

Junichi HANNA and Kyoko KOGO are two of the inventors in the instant application. As evidenced by the attached Declaration Under Rule 132, to the extent that the subject matter disclosed and claimed in the above-captioned patent application is also disclosed in Hanna, Junichi HANNA and Kyoko KOGO are co-inventors of that subject matter and are the only inventors of that subject matter. Thus, the relevant disclosure of Hanna is the applicant's own work, and is not "by another" as required by §102(e).

For these reasons, Hanna is not available as prior art under §102(e). Reconsideration and withdrawal of the rejection are respectfully requested.

III. §103(a) REJECTION OVER SHIMIZU IN VIEW OF DEMUS

The Office Action rejects claims 13-17 and 19-22 under 35 U.S.C. §103(a) as being obvious over Shimizu in view of Demus ("Relations of Isomorphism Between Liquid Crystalline Phases 21 Synthesis and Liquid Crystalline Properties of 4,4'-disubstituted

Biphenyls," Journal de Physique, Colloque, 1775, vol. 1, pp. 349-354). Applicants respectfully traverse the rejection.

A. Shimizu, alone or in view of Demus, fails to teach or suggest every limitation of claims 13-17 and 19-22

Claim 13 recites:

An information recording medium comprising:
a pair of electrodes;
a liquid crystal material filled into a gap between said electrodes, the liquid crystal material comprising a rod-shape liquid crystal compound,
said liquid crystal material having a property such that charge-transport properties are varied according to a phase transfer between a plurality of stable liquid crystal phases of the liquid crystal and/or a history of the phase transfer, the phase transfer of the liquid crystal material occurring upon a change in temperature of the liquid crystal material between a crystalline phase at a room temperature to an isotropic phase in a final state through a smectic phase at an elevated temperature,
said liquid crystal material comprising a material selected from the group consisting of a phenylbenzothiazole liquid crystal, 4-hexyloxy-4-butanoylbiphenyl, and a phenylnaphthalene liquid crystal wherein the phenylnaphthalene is one selected from the group consisting of 2-(4'-octylphenyl)-6-dodecyloxynaphthalene, 2-(4'-octylphenyl)-6-butyloxynaphthalene, 2-(4'-octylphenyl)-6-nonyloxynaphthalene and a mixture thereof,
a thickness of the gap between the electrodes being larger than a domain size of the liquid crystal compound at least in the initial state of the liquid crystal material, and
the thickness of the gap between the electrodes being smaller than a domain size of the liquid crystal compound in a cooled state from the isotropic phase in a final state.

For the reasons discussed above in Sections I.A.-C., Shimizu fails to teach or suggest a thickness of the gap between the electrodes being smaller than a domain size of the liquid crystal compound in a cooled state from the isotropic phase in a final state. Thus, Shimizu fails to teach or suggest every limitation of claim 13.

Demus is cited for disclosing using 4-hexyloxy-4-butanoylbiphenyl in liquid crystal displays. However, Demus also fails to teach or suggest a thickness of the gap between the

electrodes being smaller than a domain size of the liquid crystal compound in a cooled state from the isotropic phase in a final state.

For at least these reasons, Shimizu, alone or in view of Demus, fails to teach or suggest every limitation of claim 13. Claims 14-17 and 19-22 depend from claim 13 and include all of its limitations. Accordingly, Shimizu, alone or in view of Demus, fails to teach every limitation of these dependent claims for at least the same reasons as claim 13.

B. One skilled in the art would not have been motivated combine the cited references to practice the claimed invention

The Office Action acknowledges that Shimizu fails to teach the specific liquid crystal material recited in claim 13. However, the Office Action argues that Demus' disclosure of 4-hexyloxy-4-butanoylbiphenyl in liquid crystal displays remedies this deficiency of Shimizu. Applicants respectfully assert that one skilled in the art would not have been motivated to modify Shimizu's device, based on the disclosure of Demus, to practice the claimed invention.

The motivation for one skilled in the art to make the claimed combination must be found in the prior art, and not based on applicant's disclosure. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) and MPEP §§2142-2143. The Office Action argues that one skilled in the art would have been motivated to use 4-hexyloxy-4-butanoylbiphenyl as the liquid crystal material in Shimizu's device "to transport the electrons for utilization of light emission at the electrode interface." However, as discussed above, Shimizu discloses a separate photoelectric sensor having the charge-transport layer, and not a liquid crystal material having varying charge-transport properties. Thus, one skilled in the art would not have been motivated to modify Shimizu's liquid crystal material "to transport the electrons for utilization of light emission at the electrode interface," because Shimizu's photoelectric sensor already performs this function in Shimizu's device.

Furthermore, the Office Action provides no motivation for one skilled in the art to modify Shimizu's device to use 4-hexyloxy-4-butanoylbiphenyl as the liquid crystal material, as opposed to the various other liquid crystal materials disclosed in Demus.

For at least these reasons, one skilled in the art would not have been motivated to modify Shimizu's device to use 4-hexyloxy-4-butanoylbiphenyl as the liquid crystal material, based on Demus.

C. Conclusion

For at least the reasons discussed above, the Office Action has failed to establish a *prima facie* case of obviousness. Specifically, Shimizu, alone or in view of Demus, fails to teach or suggest every limitation of claim 13-17 and 19-22. Furthermore, one skilled in the art would not have been motivated – in the absence of the instant specification -- to combine the disclosures of Shimizu and Demus to practice the claimed invention. Accordingly, claims 13-17 and 19-22 are patentable over Shimizu, alone or in view of Demus.

Claim 22 is also patentable for its own reasons. Specifically, for the reasons discussed above, Shimizu and Demus both fail to teach or suggest the gap thickness claimed in claim 13. In addition, both Shimizu and Demus fail to teach or suggest a thickness between the pair of electrodes that satisfies both requirements represented by inequalities (A) and (B), as required by claim 22. Thus, claim 22 is patentable over Shimizu, alone or in view of Demus, for this additional reason.

Reconsideration and withdrawal of the rejection are respectfully requested.

IV. §103(a) REJECTION OVER SHIMIZU IN VIEW OF EP 532

The Office Action rejects claim 18 under 35 U.S.C. §103(a) as being obvious over Shimizu in view of EP 532 (EP 763,532). Applicants respectfully traverse the rejection.

A. Shimizu, alone or in view of EP 532, fails to teach or suggest every limitation of claim 18

For the reasons discussed above in Sections I.A.-C., Shimizu fails to teach or suggest a thickness of the gap between the electrodes being smaller than a domain size of the liquid crystal compound in a cooled state from the isotropic phase in a final state. Thus, Shimizu fails to teach or suggest every limitation of claim 13. Claim 18 depends from claim 13 and includes all of its limitations. Accordingly, Shimizu fails to teach or suggest every limitation of claim 18 for at least the same reasons as claim 13.

EP 532 is cited for allegedly disclosing using 2-(4'-heptyloxyphenyl)-6-dodecylthiobenzothiazole in liquid crystal displays. However, EP 532 also fails to teach or suggest a thickness of the gap between the electrodes being smaller than a domain size of the liquid crystal compound in a cooled state from the isotropic phase in a final state.

For at least these reasons, Shimizu, alone or in view of EP 532, fails to teach or suggest every limitation of claim 18.

B. One skilled in the art would not have been motivated combine the cited references to practice the claimed invention

The Office Action acknowledges that Shimizu fails to teach 2-(4'-heptyloxyphenyl)-6-dodecylthiobenzothiazole, as required by claim 18. The Office Action argues that EP 532 discloses 2-(4'-heptyloxyphenyl)-6-dodecylthiobenzothiazole in liquid crystal displays. However, Applicants respectfully assert that one skilled in the art would not have been motivated to modify Shimizu's device, based on the disclosure of EP 532, to practice the claimed invention.

As discussed above, the motivation for one skilled in the art to make the claimed combination must be found in the prior art, and not based on applicant's disclosure. The Office Action argues that one skilled in the art would have been motivated to use 2-(4'-heptyloxyphenyl)-6-dodecylthiobenzothiazole as the liquid crystal material in Shimizu's

device "to transport the electrons for utilization of light emission at the electrode interface." However, as discussed above, Shimizu discloses a separate photoelectric sensor having the charge-transport layer. Thus, one skilled in the art would not have been motivated to modify Shimizu's liquid crystal material "to transport the electrons for utilization of light emission at the electrode interface," because Shimizu's photoelectric sensor already performs this function in Shimizu's device.

Furthermore, the Office Action provides no motivation for one skilled in the art to modify Shimizu's device to use 2-(4'-heptyloxyphenyl)-6-dodecylthiobenzothiazole as the liquid crystal material, as opposed to the various other liquid crystal materials disclosed in EP 532.

For at least these reasons, one skilled in the art would not have been motivated to modify Shimizu's device to use 2-(4'-heptyloxyphenyl)-6-dodecylthiobenzothiazole as the liquid crystal material, based on EP 532.

C. Conclusion

For at least the reasons discussed above, the Office Action has failed to establish a *prima facie* case of obviousness. Specifically, Shimizu, alone or in view of EP 532, fails to teach or suggest every limitation of claim 18. Furthermore, one skilled in the art would not have been motivated – in the absence of the instant specification -- to combine the disclosures of Shimizu and EP 532 to practice the claimed invention. Accordingly, claim 18 is patentable over Shimizu, alone or in view of EP 532.

Reconsideration and withdrawal of the rejection are respectfully requested.

V. §103(a) REJECTION OVER ISHIDA IN VIEW OF DEMUS

The Office Action rejects claims 13-17 and 19-23 under 35 U.S.C. §103(a) as being obvious over Ishida (U.S. Patent No. 5,861,108) in view of Demus. Applicants respectfully traverse the rejection.

A. Ishida, alone or in view of Demus, fails to teach or suggest every limitation of claims 13-17 and 19-23

Claim 13 is discussed above. Claims 13-17 and 19-23 would not have been obvious over Ishida, alone or in view of Demus, because Ishida, alone or in view of Demus, fails to teach or suggest every limitation of claims 13-17 and 19-23.

1. Shimizu fails to teach or suggest a liquid crystal material having a property such that charge-transport properties are varied according to a phase transfer of the liquid crystal

The Office Action argues that Ishida discloses a liquid crystal material that has a phase transfer upon a change in the temperature of the liquid crystal material. However, Ishida fails to teach or suggest a liquid crystal material having charge-transport properties that vary according to a phase transfer of the liquid crystal material, as required by claim 13.

At col. 180, lines 35-37, Ishida discloses liquid crystal material having an isotropic transition temperature of 88°C, 60°C, or 0°C. Thus, heating Ishida's liquid crystal material to its isotropic transition temperature will drive it into a conventional liquid phase characterized by random molecular ordering and fluid-like flow behavior. However, Ishida does not teach or suggest that the liquid crystal material has charge-transport properties, and Ishida does not teach or suggest a liquid crystal material that has charge-transport properties that vary according to a phase transfer of the liquid crystal material, as required by claim 13.

For at least these reasons, Ishida fails to teach or suggest every limitation of claim 13. Specifically, Ishida fails to teach or suggest a liquid crystal material having charge-transport properties that vary according to a phase transfer of the liquid crystal material.

2. Ishida fails to teach or suggest a thickness of the gap between the electrodes being smaller than a domain size of the liquid crystal compound in a cooled state from the isotropic phase in a final state

As acknowledged in the Office Action, Ishida is silent regarding a thickness of a gap between the electrodes, and thus does not expressly teach the gap thickness of claim 13.

The Office Action argues that Ishida discloses: (i) the claimed electrodes, (ii) the claimed liquid crystal material, and (iii) that the liquid crystal material is used to fill the gap between the electrodes. The Office Action further argues that all of the structural limitations of claim 13 are met because Ishida discloses (i) - (iii), and that the claimed gap thickness is therefore inherently taught by Ishida. In other words, as discussed above, the Office Action argues that the claimed gap thickness is not a structural limitation.

First, as discussed above, Ishida does not teach or suggest the claimed liquid crystal material having charge-transport properties that are varied according to a phase transfer of the of the liquid crystal material, as required by claim 13. Thus, the Office Action is incorrect in its argument that Ishida teaches the claimed liquid crystal material.

Second, as discussed above, the thickness of the gap between the electrodes is itself a structural limitation. Thus, even if Ishida's liquid crystal material is identical to the claimed liquid crystal material (which it is not), and even if Ishida's liquid crystal material has chemical properties identical to the claimed liquid crystal material (which it does not), Ishida's device has a different structure from the claimed medium because Ishida fails to teach or suggest the claimed gap thickness.

For at least these additional reasons, Ishida fails to teach or suggest every limitation of claim 13. Specifically, Ishida fails to teach or suggest a medium comprising a thickness of the gap between the electrodes being smaller than a domain size of the liquid crystal compound in a cooled state from the isotropic phase in a final state.

3. Demus does not remedy the deficiencies of Ishida

As discussed above, Demus is cited for disclosing 4-hexyloxy-4-butanoylbiphenyl in liquid crystal displays. However, Demus also fails to teach or suggest a medium comprising a thickness of the gap between the electrodes being smaller than a domain size of the liquid

crystal compound in a cooled state from the isotropic phase in a final state. Thus, Demus does not remedy the deficiencies of Ishida.

4. Conclusion

For at least the reasons discussed above, Ishida, alone or in view of Demus, fails to teach every limitation of claim 13. Claims 14-17 and 19-23 depend from claim 13 and include all of its features. Accordingly, Ishida, alone or in view of Demus, fails to teach every limitation of these dependent claims for at least the same reasons as claim 13.

B. One skilled in the art would not have been motivated combine the cited references to practice the claimed invention

The Office Action acknowledges that Ishida fails to teach the specific liquid crystal material recited in claim 13. However, the Office Action argues that Demus' disclosure of 4-hexyloxy-4-butanoylbiphenyl in liquid crystal displays remedies this deficiency of Ishida. Applicant respectfully disagrees, and asserts that one skilled in the art would not have been motivated to modify Ishida's device, based on the disclosure of Demus, to practice the claimed invention.

As discussed above, the motivation for one skilled in the art to make the claimed combination must be found in the prior art, and not based on applicant's disclosure. The Office Action provides no motivation – in the absence of the instant specification -- for one skilled in the art to modify Ishida's device to use 4-hexyloxy-4-butanoylbiphenyl as the liquid crystal material, as opposed to the various other options disclosed in Demus. In particular, the desirability of using liquid crystal material possessing the claimed charged-transport property comes from the instant specification, and not from the cited references. For at least these reasons, one skilled in the art would not have been motivated to modify Ishida's device to use 4-hexyloxy-4-butanoylbiphenyl as the liquid crystal material, based on Demus.

C. Conclusion

For at least the reasons discussed above, the Office Action has failed to establish a *prima facie* case of obviousness. Specifically, Ishida, alone or in view of Demus, fails to teach or suggest every limitation of claim 13-17 and 19-23. Furthermore, one skilled in the art would not have been motivated – in the absence of the instant specification -- to combine the disclosures of Ishida and Demus to practice the claimed invention. Accordingly, claims 13-17 and 19-23 are patentable over Ishida, alone or in view of Demus.

Claim 22 is also patentable for its own reasons. Specifically, for the reasons discussed above, Ishida and Demus both fail to teach or suggest the gap thickness claimed in claim 13. In addition, both Ishida and Demus fail to teach or suggest a thickness between the pair of electrodes that satisfies both requirements represented by inequalities (A) and (B), as required by claim 22. Thus, claim 22 is patentable over Ishida, alone or in view of Demus, for this additional reason.

Reconsideration and withdrawal of the rejection are respectfully requested.

VI. THE §103(a) REJECTION OVER ISHIDA IN VIEW OF EP 532

The Office Action rejects claim 18 under 35 U.S.C. §103(a) as being obvious over Ishida in view of EP 532 (EP 763,532). Applicants respectfully traverse the rejection.

A. Ishida, alone or in view of EP 532, fails to teach or suggest every limitation of claim 18

For the reasons discussed above in Sections V.A., Ishida fails to teach or suggest a thickness of the gap between the electrodes being smaller than a domain size of the liquid crystal compound in a cooled state from the isotropic phase in a final state. Thus, Ishida fails to teach or suggest every limitation of claim 13. Claim 18 depends from claim 13 and includes all of its limitations. Accordingly, Ishida fails to teach or suggest every limitation of claim 18 for at least the same reasons as claim 13.

EP 532 is cited for disclosing using 2-(4'-heptyloxyphenyl)-6-dodecylthiobenzothiazole in liquid crystal displays. However, EP 532 also fails to teach or suggest a thickness of the gap between the electrodes being smaller than a domain size of the liquid crystal compound in a cooled state from the isotropic phase in a final state.

For at least these reasons, Ishida, alone or in view of EP 532, fails to teach or suggest every limitation of claim 18.

B. One skilled in the art would not have been motivated combine the cited references to practice the claimed invention

The Office Action acknowledges that Ishida fails to teach 2-(4'-heptyloxyphenyl)-6-dodecylthiobenzothiazole, as required by claim 18. The Office Action argues that EP 532 discloses 2-(4'-heptyloxyphenyl)-6-dodecylthiobenzothiazole in liquid crystal displays. However, Applicants respectfully assert that one skilled in the art would not have been motivated to modify Ishida's device, based on the disclosure of EP 532, to practice the claimed invention.

As discussed above, the motivation for one skilled in the art to make the claimed combination must be found in the prior art, and not based on applicant's disclosure. The Office Action argues that one skilled in the art would have been motivated to use 2-(4'-heptyloxyphenyl)-6-dodecylthiobenzothiazole as the liquid crystal material in Ishida's device "to transport the electrons for utilization of light emission at the electrode interface." However, the Office Action provides no motivation for one skilled in the art to modify Ishida's device to use 2-(4'-heptyloxyphenyl)-6-dodecylthiobenzothiazole as the liquid crystal material, as opposed to the various other liquid crystal materials disclosed in EP 532. In particular, the desirability of the liquid crystal material possessing the claimed charged-transport property comes from the instant specification, and not from the cited references.

For at least these reasons, one skilled in the art would not have been motivated to modify Ishida's device to use 2-(4'-heptyloxyphenyl)-6-dodecylthiobenzothiazole as the liquid crystal material, based on EP 532.

C. Conclusion

For at least the reasons discussed above, the Office Action has failed to establish a *prima facie* case of obviousness. Specifically, Ishida, alone or in view of EP 532, fails to teach or suggest every limitation of claim 18. Furthermore, one skilled in the art would not have been motivated – in the absence of the instant specification -- to combine the disclosures of Ishida and EP 532 to practice the claimed invention. Accordingly, claim 18 is patentable over Ishida, alone or in view of EP 532.

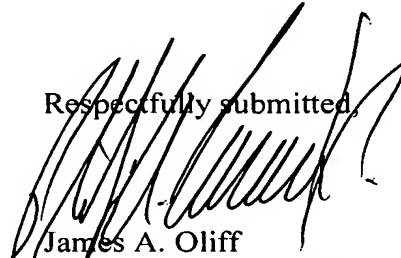
Reconsideration and withdrawal of the rejection are respectfully requested.

IV. CLOSING

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 13-23 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

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Attachment:

Declaration Under 37 C.F.R. §1.132 of Junichi Hanna and Kyoko Kogo

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